

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 606

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ARTS AND
CULTURAL DISTRICT ACT; PROVIDING FOR THE CREATION OF ARTS AND
CULTURAL DISTRICTS; PROVIDING FOR CULTURAL FACILITIES; CREATING
TAX CREDITS FOR PRESERVATION OF CULTURAL PROPERTIES; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Arts and Cultural
District Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Arts and Cultural District Act:

A. "arts and cultural district" means a developed
district of public and private uses designated by the
commission or a municipality;

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1 B. "commission" means the New Mexico arts
2 commission; and

3 C. "coordinator" means the person responsible for
4 coordinating the main street program pursuant to Subsection B
5 of Section 3-60B-3 NMSA 1978.

6 Section 3. [NEW MATERIAL] MAIN STREET PROGRAM
7 COORDINATOR--DUTIES.--

8 A. The coordinator shall:

9 (1) review and approve or reject applications
10 from municipalities, citizens and nonprofit organizations to
11 designate state-authorized arts and cultural districts pursuant
12 to the Arts and Cultural District Act;

13 (2) administer and promote an application
14 process for the designation of state-authorized arts and
15 cultural districts;

16 (3) provide financial grants or contracts for
17 development of a state-authorized arts and cultural district,
18 including planning, designing, construction and renovation
19 costs; and

20 (4) develop policies and standards for the
21 designation of state-authorized arts and cultural districts and
22 for the declassification should a state-authorized arts and
23 cultural district not comply with the policies and standards
24 established by the commission as set forth in an approved
25 application.

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1 B. The coordinator shall require annual reports
2 from each state-authorized arts and cultural district for
3 purposes of reviewing the activities of that district,
4 including the compliance of the district with the policies and
5 standards of the commission and with the conditions of an
6 approved application.

7 Section 4. [NEW MATERIAL] ARTS AND CULTURAL DISTRICTS--
8 CREATION.--

9 A. A state-authorized arts and cultural district
10 may be created by the municipality in which the proposed arts
11 and cultural district will be located only if the proposed
12 district is approved by the commission.

13 B. A municipally authorized arts and cultural
14 district may be created by a municipality with a population
15 greater than fifty thousand in which the proposed arts and
16 cultural district will be located if the proposed district
17 meets the criteria set forth in Subsection C of this section.

18 C. An arts and cultural district shall:

19 (1) be in a geographically contiguous area
20 that ranges in size from a portion of a municipality to a
21 regional district with a special coherence;

22 (2) be distinguished by physical and cultural
23 resources that play a vital role in the life and development,
24 including economic and cultural development, of a community;

25 (3) focus on a cultural compound, a major art

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1 institution, art and entertainment businesses, an area with
2 arts and cultural activities or cultural or artisan production;
3 and

4 (4) be engaged in promotion, preservation and
5 educational aspects of the arts and culture of that locale and
6 contribute to the public through interpretive, educational and
7 recreational uses.

8 Section 5. [NEW MATERIAL] STATE-AUTHORIZED DISTRICTS.--

9 A. The coordinator shall review applications
10 submitted by municipalities, citizens or nonprofit
11 organizations for the purpose of designating an arts and
12 cultural district and make a recommendation to the commission
13 for action on each application. Citizens and nonprofit
14 organizations that submit an application shall include a formal
15 endorsement of the application by the municipal government in
16 which the proposed district is to be located.

17 B. After reviewing an application for the
18 designation of an arts and cultural district, the commission
19 shall approve or reject the application or send it back to the
20 applicant with a request for changes or additional information.

21 C. The commission shall designate no more than five
22 arts and cultural districts in a calendar year. Rejected
23 applicants may re-apply without prejudice.

24 D. If the commission approves an application for
25 the designation of an arts and cultural district, it shall

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1 notify the applicant in writing and shall specify the terms and
 2 conditions of the commission's approval, including the terms
 3 and conditions set forth in the application and as modified by
 4 written agreement between the applicant and the commission.

5 E. After the commission approves an application for
 6 the designation of a state-authorized arts and cultural
 7 district, the applicable municipality may pass a local
 8 ordinance to establish the state-authorized arts and cultural
 9 district pursuant to the terms and conditions specified in the
 10 approved application. Municipalities may administer arts and
 11 cultural districts through a newly created local commission
 12 with a specific mission to oversee the district subject to
 13 review by the municipality.

14 Section 6. [NEW MATERIAL] MUNICIPALLY AUTHORIZED
 15 DISTRICTS.--Municipalities with a population greater than fifty
 16 thousand that choose to authorize their own districts shall
 17 pass a local ordinance stating minimum requirements for
 18 establishing the arts and cultural district, and any
 19 municipally authorized arts and cultural district shall meet
 20 the criteria contained in Subsection C of Section 4 of the Arts
 21 and Cultural District Act.

22 Section 7. [NEW MATERIAL] ARTS AND CULTURAL DISTRICT FUND
 23 ESTABLISHED.--The "arts and cultural district fund" is created
 24 as a nonreverting fund in the state treasury. The fund
 25 consists of appropriations, gifts, grants, donations and

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1 bequests. The fund shall be administered by the cultural
2 affairs department, and money in the fund is appropriated to
3 the cultural affairs department to carry out the provisions of
4 the Arts and Cultural District Act. Money in the fund shall be
5 disbursed on warrants signed by the secretary of finance and
6 administration pursuant to vouchers signed by the secretary of
7 cultural affairs or the secretary's authorized representative.

8 Section 8. Section 5-10-2 NMSA 1978 (being Laws 1993,
9 Chapter 297, Section 2) is amended to read:

10 "5-10-2. FINDINGS AND PURPOSE OF ACT.--

11 A. The legislature finds that:

12 (1) development of the New Mexico economy is
13 vital to the well-being of the state and its residents;

14 (2) it is difficult for municipalities and
15 counties in New Mexico to attract and retain businesses capable
16 of enhancing the local and state economy without the resources
17 necessary to compete with other states and locales;

18 (3) municipalities and counties may need to be
19 able to provide land, buildings and infrastructure as a tool
20 for basic business growth and the introduction of basic
21 business ventures into the state;

22 (4) it is in the best interest of the state,
23 municipalities and counties to encourage local or regional
24 solutions to economic development; and

25 (5) the access to public resources needs to be

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1 carefully controlled and managed for the continued and future
2 benefit of New Mexico citizens.

3 B. The purpose of the Local Economic Development
4 Act is to implement the provisions of the 1994 constitutional
5 amendment to Article 9, Section 14 of the constitution of
6 New Mexico to allow public support of economic development to
7 foster, promote and enhance local economic development efforts
8 while continuing to protect against the unauthorized use of
9 public money and other public resources. Further, the purpose
10 of that act is to allow municipalities and counties to enter
11 into joint powers agreements to plan and support regional
12 economic development projects, including investments in arts
13 and cultural districts created pursuant to the Arts and
14 Cultural District Act."

15 Section 9. Section 5-10-3 NMSA 1978 (being Laws 1993,
16 Chapter 297, Section 3, as amended) is amended to read:

17 "5-10-3. DEFINITIONS.--As used in the Local Economic
18 Development Act:

19 A. "arts and cultural district" means a developed
20 district of public and private uses that is created pursuant to
21 the Arts and Cultural District Act;

22 B. "cultural facility" means a facility that is
23 owned by the state, a county, a municipality or a qualifying
24 entity that serves the public through preserving, educating and
25 promoting the arts and culture of a particular locale,

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1 including theaters, museums, libraries, galleries, cultural
2 compounds, educational organizations, performing arts venues
3 and organizations, fine arts organizations, studios and media
4 laboratories and live-work housing facilities;

5 [A.] C. "department" means the economic development
6 department;

7 [B.] D. "economic development project" or "project"
8 means the provision of direct or indirect assistance to a
9 qualifying [~~business~~] entity by a local or regional government
10 and includes the purchase, lease, grant, construction,
11 reconstruction, improvement or other acquisition or conveyance
12 of land, buildings or other infrastructure; public works
13 improvements essential to the location or expansion of a
14 qualifying [~~business~~] entity; payments for professional
15 services contracts necessary for local or regional governments
16 to implement a plan or project; the provision of direct loans
17 or grants for land, buildings or infrastructure; technical
18 assistance to cultural facilities; loan guarantees securing the
19 cost of land, buildings or infrastructure in an amount not to
20 exceed the revenue that may be derived from the municipal
21 infrastructure gross receipts tax or the county infrastructure
22 gross receipts tax; grants for public works infrastructure
23 improvements essential to the location or expansion of a
24 qualifying [~~business~~] entity; grants or subsidies to cultural
25 facilities; purchase of land for a publicly held industrial

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1 park or a publicly owned cultural facility; and the
 2 construction of a building for use by a qualifying [~~business~~]
 3 entity;

4 [~~G.~~] E. "governing body" means the city council,
 5 [~~or~~] city commission [~~of a city, the~~] or board of trustees of a
 6 [~~town or village~~] municipality or the board of county
 7 commissioners of a county;

8 [~~D.~~] F. "local government" means a municipality or
 9 county;

10 [~~E.~~] G. "municipality" means an incorporated city,
 11 town or village;

12 [~~F.~~] H. "person" means an individual, corporation,
 13 association, partnership or other legal entity;

14 [~~G.~~] I. "qualifying entity" means a corporation,
 15 limited liability company, partnership, joint venture,
 16 syndicate, association or other person that is one or a
 17 combination of two or more of the following:

18 (1) an industry for the manufacturing,
 19 processing or assembling of agricultural or manufactured
 20 products;

21 (2) a commercial enterprise for storing,
 22 warehousing, distributing or selling products of agriculture,
 23 mining or industry, but, other than as provided in Paragraph
 24 (5) or (6) of this subsection, not including any enterprise for
 25 sale of goods or commodities at retail or for distribution to

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1 the public of electricity, gas, water or telephone or other
2 services commonly classified as public utilities;

3 (3) a business in which all or part of the
4 activities of the business involves the supplying of services
5 to the general public or to governmental agencies or to a
6 specific industry or customer, but, other than as provided in
7 Paragraph (5) of this subsection, not including businesses
8 primarily engaged in the sale of goods or commodities at
9 retail;

10 (4) an Indian nation, tribe or pueblo or a
11 federally chartered tribal corporation;

12 (5) a telecommunications sales enterprise that
13 makes the majority of its sales to persons outside New Mexico;

14 (6) a facility for the direct sales by growers
15 of agricultural products, commonly known as farmers' markets;

16 [~~or~~]

17 (7) a business that is the developer of a
18 metropolitan redevelopment project; and

19 (8) a cultural facility; and

20 [~~H.~~] J. "regional government" means any combination
21 of municipalities and counties that enter into a joint powers
22 agreement to provide for economic development projects pursuant
23 to a plan adopted by all parties to the joint powers
24 agreement."

25 Section 10. Section 5-10-4 NMSA 1978 (being Laws 1993,

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1 Chapter 297, Section 4, as amended) is amended to read:

2 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
3 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

4 A. No local or regional government shall provide
5 public support for economic development projects as permitted
6 pursuant to Article 9, Section 14 of the constitution of
7 New Mexico except as provided in the Local Economic Development
8 Act or as otherwise permitted by law.

9 B. The total amount of public money expended and
10 the value of credit pledged in the fiscal year in which that
11 money is expended by a local government for economic
12 development projects pursuant to Article 9, Section 14 of the
13 constitution of New Mexico and the Local Economic Development
14 Act shall not exceed five percent of the annual general fund
15 expenditures of the local government in that fiscal year. The
16 limits of this subsection shall not apply to:

17 (1) the value of any land or building
18 contributed to any project pursuant to a project participation
19 agreement;

20 (2) revenue generated through the imposition
21 of the municipal infrastructure gross receipts tax pursuant to
22 the Municipal Local Option Gross Receipts Taxes Act for
23 furthering or implementing economic development plans and
24 projects as defined in the Local Economic Development Act or
25 projects as defined in the Statewide Economic Development

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1 Finance Act; provided that no more than the greater of fifty
2 thousand dollars (\$50,000) or ten percent of the revenue
3 collected shall be used for promotion and administration of or
4 professional services contracts related to the implementation
5 of any such economic development plan adopted by the governing
6 body;

7 (3) revenue generated through the imposition
8 of a county infrastructure gross receipts tax pursuant to the
9 County Local Option Gross Receipts Taxes Act for furthering or
10 implementing economic development plans and projects as defined
11 in the Local Economic Development Act or projects as defined in
12 the Statewide Economic Development Finance Act; provided that
13 no more than the greater of fifty thousand dollars (\$50,000) or
14 ten percent of the revenue collected shall be used for
15 promotion and administration of or professional services
16 contracts related to the implementation of any such economic
17 development plan adopted by the governing body;

18 (4) the proceeds of a revenue bond issue to
19 which municipal infrastructure gross receipts tax revenue is
20 pledged;

21 (5) the proceeds of a revenue bond issue to
22 which county infrastructure gross receipts tax revenue is
23 pledged; or

24 (6) funds donated by private entities to be
25 used for defraying the cost of a project.

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1 C. A regional or local government that generates
2 revenue for economic development projects to which the limits
3 of Subsection B of this section do not apply shall create an
4 economic development fund into which such revenues shall be
5 deposited. The economic development fund and income from the
6 economic development fund shall be deposited as provided by
7 law. Money in the economic development fund may be expended
8 only as provided in the Local Economic Development Act or the
9 Statewide Economic Development Finance Act.

10 D. In order to expend money from an economic
11 development fund for arts and cultural district purposes or
12 cultural facilities, the governing body of a municipality or
13 county that has imposed a municipal or county local option
14 infrastructure gross receipts tax for furthering or
15 implementing economic development plans and projects, as
16 defined in the Local Economic Development Act, or projects, as
17 defined in the Statewide Economic Development Finance Act, by
18 referendum of the majority of the voters voting on the question
19 approving the ordinance imposing the municipal or county
20 infrastructure gross receipts tax before June 30, 2007 shall be
21 required to adopt a resolution. The resolution shall call for
22 an election to approve arts and cultural districts as a
23 qualifying purpose and cultural facilities as a qualifying
24 entity before any revenue generated by the municipal or county
25 local option gross receipts tax for furthering or implementing

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1 economic development plans and projects, as defined in the
2 Local Economic Development Act, or projects, as defined in the
3 Statewide Economic Development Finance Act, can be expended
4 from the economic development fund for arts and cultural
5 district purposes or cultural facilities.

6 E. The governing body shall adopt a resolution
7 calling for an election within seventy-five days of the date
8 the ordinance is adopted on the question of approving arts and
9 cultural districts as a qualifying purpose and cultural
10 facilities as a qualifying entity eligible to utilize revenue
11 generated by the Municipal Local Option Gross Receipts Taxes
12 Act or the County Local Option Gross Receipts Taxes Act for
13 furthering or implementing economic development plans and
14 projects as defined in the Local Economic Development Act or
15 projects as defined in the Statewide Economic Development
16 Finance Act.

17 F. The question shall be submitted to the voters of
18 the municipality or county as a separate question at a regular
19 municipal or county election or at a special election called
20 for that purpose by the governing body. A special municipal
21 election shall be called, conducted and canvassed as provided
22 in the Municipal Election Code. A special county election
23 shall be called, conducted and canvassed in substantially the
24 same manner as provided by law for general elections.

25 G. If a majority of the voters voting on the

1 question approves the ordinance adding arts and cultural
 2 districts and cultural facilities as an approved use of the
 3 local option municipal or county economic development
 4 infrastructure gross receipts tax fund, the ordinance shall
 5 become effective on July 1 or January 1, whichever date occurs
 6 first after the expiration of three months from the date of the
 7 adopted ordinance. The ordinance shall include the effective
 8 date."

9 Section 11. Section 5-10-5 NMSA 1978 (being Laws 1993,
 10 Chapter 297, Section 5) is amended to read:

11 "5-10-5. ECONOMIC DEVELOPMENT DEPARTMENT--TECHNICAL
 12 ASSISTANCE.--At the request of a local or regional government,
 13 the department shall provide technical assistance in the
 14 development of an economic development plan or economic
 15 development project or technical assistance to cultural
 16 facilities with respect to economic development projects."

17 Section 12. Section 5-10-6 NMSA 1978 (being Laws 1993,
 18 Chapter 297, Section 6, as amended) is amended to read:

19 "5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS--
 20 PUBLICATION.--

21 A. Every local or regional government seeking to
 22 pursue economic development projects shall adopt an economic
 23 development plan or a comprehensive plan that includes an
 24 economic development component, and an economic development
 25 plan or comprehensive plan may include an analysis of the role

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1 of arts and cultural activities in economic development. The
2 plan may be specific to a single economic development goal or
3 strategy or may include several goals or strategies, including
4 any goals or strategies relating to economic development
5 through arts and cultural activities. Any plan or plan
6 amendment shall be adopted by ordinance of the governing body
7 of the local government or each local government of a regional
8 government proposing the plan or plan amendment.

9 B. The economic development plan or the ordinance
10 adopting the plan may:

11 (1) describe the local or regional
12 government's economic development and community goals,
13 including any economic development goals with an arts and
14 cultural component, and assign priority to and strategies for
15 achieving those goals;

16 (2) describe the types of qualifying entities
17 and economic activities that will qualify for economic
18 development projects;

19 (3) describe the criteria to be used to
20 determine eligibility of an economic development project and a
21 qualifying entity to participate in an economic development
22 project;

23 (4) describe the manner in which a qualifying
24 entity may submit an economic development project application,
25 including the type of information required from the qualifying

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1 entity sufficient to ensure its solvency and ability to perform
2 its contractual obligations, its commitment to remain in the
3 community and its commitment to the stated economic development
4 goals of the local or regional government;

5 (5) describe the process the local or regional
6 government will use to verify the information submitted on an
7 economic development project application;

8 (6) if an economic development project is
9 determined to be unsuccessful or if a qualifying entity seeks
10 to leave the area, describe the methods the local or regional
11 government will use to terminate its economic assistance and
12 recoup its investment;

13 (7) identify revenue sources, including those
14 of the local or regional government, that will be used to
15 support economic development projects;

16 (8) identify other resources the local or
17 regional government is prepared to offer qualifying entities,
18 including specific land or buildings it is willing to lease,
19 sell or grant a qualifying entity; community infrastructure it
20 is willing to build, extend or expand, including roads, water,
21 sewers or other utilities; and professional services contracts
22 by local or regional governments necessary to provide these
23 resources;

24 (9) detail the minimum benefit the local or
25 regional government requires from a qualifying entity,

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1 including the number and types of jobs to be created; the
2 proposed payroll; repayment of loans, if any; purchase by the
3 qualifying entity of local or regional government-provided
4 land, buildings or infrastructure; the public to private
5 investment ratio; and direct local tax base expansion;

6 (10) describe the safeguards of public
7 resources that will be ensured, including specific ways the
8 local or regional government can recover any costs, land,
9 buildings or other thing of value if a qualifying entity ceases
10 operation, relocates or otherwise defaults or reneges on its
11 contractual or implied obligations to the local or regional
12 government; and

13 (11) if a regional government, describe the
14 joint powers agreement, including whether it can be terminated
15 and, if so, how the contractual or other obligations, risks and
16 any property will be assigned or divided among the local
17 governments who are party to the agreement.

18 C. The economic development plan shall be printed
19 and made available to the residents within the local or
20 regional government area."

21 Section 13. Section 5-10-9 NMSA 1978 (being Laws 1993,
22 Chapter 297, Section 9) is amended to read:

23 "5-10-9. PROJECT EVALUATION--DEPARTMENT.--

24 A. The local or regional government shall review
25 each project application, and projects shall be approved by

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1 ordinance.

2 B. The local or regional government's evaluation of
 3 an application shall be based on the provisions of the economic
 4 development plan, the financial and management stability of the
 5 qualifying entity, the demonstrated commitment of the
 6 qualifying entity to the community, a cost-benefit analysis of
 7 the project and any other information the local or regional
 8 government believes is necessary for a full review of the
 9 economic development project application.

10 C. The local or regional government may negotiate
 11 with a qualifying [~~business~~] entity on the type or amount of
 12 assistance to be provided or on the scope of the economic
 13 development project."

14 Section 14. Section 7-2-18.2 NMSA 1978 (being Laws 1984,
 15 Chapter 34, Section 1) is amended to read:

16 "7-2-18.2. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--
 17 REFUND.--

18 A. Tax credits for the preservation of cultural
 19 property may be claimed as follows:

20 [~~A.~~] (1) To encourage the restoration,
 21 rehabilitation and preservation of cultural properties, [~~any~~] a
 22 taxpayer who files an individual New Mexico income tax return
 23 and who is not a dependent of another individual and who is the
 24 owner of a cultural property listed on the official New Mexico
 25 register of cultural properties, with [~~his~~] the taxpayer's

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1 consent, may claim a credit not to exceed a maximum aggregate
2 of twenty-five thousand dollars (\$25,000) in an amount equal to
3 one-half of the cost of restoration, rehabilitation or
4 preservation of a cultural property listed on the official New
5 Mexico register; or

6 (2) if a cultural property, whose owner may
7 otherwise claim the credit set forth in Paragraph (1) of this
8 subsection is also located within an arts and cultural district
9 certified by the state or a municipality pursuant to the Arts
10 and Cultural District Act, the owner of that cultural property
11 may claim a credit not to exceed fifty thousand dollars
12 (\$50,000), including any credit claimed pursuant to Paragraph
13 (1) of this subsection, in an amount equal to one-half of the
14 cost of restoration, rehabilitation or preservation of the
15 cultural property.

16 B. The taxpayer may claim the credit if:

17 (1) ~~[he]~~ the taxpayer submitted a plan and
18 specifications for ~~[such]~~ restoration, rehabilitation or
19 preservation to the committee and received approval from the
20 committee for the plan and specifications prior to commencement
21 of the restoration, rehabilitation or preservation;

22 (2) ~~[he]~~ the taxpayer received certification
23 from the committee after completing the restoration,
24 rehabilitation or preservation, or committee-approved phase,
25 that it conformed to the plan and specifications and preserved

1 and maintained those qualities of the property [~~which~~] that
2 made it eligible for inclusion in the official register; and

3 (3) the project is completed within twenty-
4 four months of the date the project is approved by the
5 committee in accordance with Paragraph (1) of this subsection.

6 C. A taxpayer may claim the credit provided in this
7 section for each taxable year in which restoration,
8 rehabilitation or preservation is carried out. Except as
9 provided in Subsection F of this section, claims for the credit
10 provided in this section shall be limited to three consecutive
11 years, and the maximum aggregate credit allowable shall not
12 exceed twenty-five thousand dollars (\$25,000) if governed by
13 Paragraph (1) of Subsection A of this section, or fifty
14 thousand dollars (\$50,000) if governed by Paragraph (2) of
15 Subsection A of this section, for any single restoration,
16 rehabilitation or preservation project for any cultural
17 property listed on the official New Mexico register certified
18 by the committee.

19 D. A husband and wife who file separate returns for
20 a taxable year in which they could have filed a joint return
21 may each claim only one-half of the credit that would have been
22 allowed on a joint return.

23 E. A taxpayer who otherwise qualifies and claims a
24 credit on a restoration, rehabilitation or preservation project
25 on property owned by a partnership of which the taxpayer is a

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1 member may claim a credit only in proportion to ~~[his]~~ the
2 taxpayer's interest in the partnership. The total credit
3 claimed by all members of the partnership shall not exceed
4 twenty-five thousand dollars (\$25,000) in the aggregate if
5 governed by Paragraph (1) of Subsection A of this section, or
6 fifty thousand dollars (\$50,000) in the aggregate if governed
7 by Paragraph (2) of Subsection A of this section, for any
8 single restoration, rehabilitation or preservation project for
9 any cultural property listed on the official New Mexico
10 register certified by the committee.

11 F. The credit provided in this section may only be
12 deducted from the taxpayer's income tax liability. Any portion
13 of the maximum tax credit provided by this section ~~[which]~~ that
14 remains unused at the end of the taxpayer's taxable year may be
15 carried forward for four consecutive years; provided, however,
16 the total tax credits claimed under this section shall not
17 exceed twenty-five thousand dollars (\$25,000) if governed by
18 Paragraph (1) of Subsection A of this section, or fifty
19 thousand dollars (\$50,000) if governed by Paragraph (2) of
20 Subsection A of this section, for any single restoration,
21 preservation or rehabilitation project for any cultural
22 property listed on the official New Mexico register.

23 G. The historic preservation division shall
24 promulgate regulations for the implementation of Subsection B
25 of this section.

1 H. As used in this section:

2 (1) "committee" means the cultural properties
3 review committee created in Section 18-6-4 NMSA 1978; and

4 (2) "historic preservation division" means the
5 historic preservation division of the ~~[office of]~~ cultural
6 affairs department created in Section 18-6-8 NMSA 1978."

7 Section 15. Section 7-2A-8.6 NMSA 1978 (being Laws 1984,
8 Chapter 34, Section 2, as amended) is amended to read:

9 "7-2A-8.6. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--
10 CORPORATE INCOME TAX CREDIT.--

11 A. Tax credits for the preservation of cultural
12 property may be claimed as follows:

13 ~~[A.]~~ (1) to encourage the restoration,
14 rehabilitation and preservation of cultural properties, ~~[any]~~ a
15 taxpayer ~~[who]~~ that files a corporate income tax return and
16 ~~[who]~~ that is the owner of a cultural property listed on the
17 official New Mexico register of cultural properties, with its
18 consent, may claim a credit not to exceed twenty-five thousand
19 dollars (\$25,000) in an amount equal to one-half of the cost of
20 restoration, rehabilitation or preservation of the cultural
21 property; or

22 (2) if a cultural property, whose owner may
23 otherwise claim the credit set forth in Paragraph (1) of this
24 subsection is also located within an arts and cultural district
25 designated by the state or a municipality pursuant to the Arts

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1 and Cultural District Act, the owner of that cultural property
2 may claim a credit not to exceed fifty thousand dollars
3 (\$50,000), including any credit claimed pursuant to Paragraph
4 (1) of this subsection, in an amount equal to one-half of the
5 cost of restoration, rehabilitation or preservation of the
6 cultural property.

7 B. The taxpayer may claim the credit if:

8 (1) it submitted a plan and specifications for
9 restoration, rehabilitation or preservation to the committee
10 and received approval from the committee for the plan and
11 specifications prior to commencement of the restoration,
12 rehabilitation or preservation;

13 (2) it received certification from the
14 committee after completing the restoration, rehabilitation or
15 preservation, or committee-approved phase, that it conformed to
16 the plan and specifications and preserved and maintained those
17 qualities of the property ~~which~~ that made it eligible for
18 inclusion in the official register; and

19 (3) the project is completed within twenty-
20 four months of the date the project is approved by the
21 committee in accordance with Paragraph (1) of this subsection.

22 C. A taxpayer may claim the credit provided in this
23 section for each taxable year in which preservation,
24 restoration or rehabilitation is carried out. Claims for the
25 credit provided in this section shall be limited to three

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1 consecutive years, and the maximum aggregate credit allowable
2 shall not exceed twenty-five thousand dollars (\$25,000) if
3 governed by Paragraph (1) of Subsection A of this section, or
4 fifty thousand dollars (\$50,000) if governed by Paragraph (2)
5 of Subsection A of this section, for any single restoration,
6 rehabilitation or preservation project certified by the
7 committee for any cultural property listed on the official New
8 Mexico register. No single project may extend beyond a period
9 of more than two years.

10 D. A taxpayer who otherwise qualifies and claims a
11 credit on a restoration, rehabilitation or preservation project
12 on property owned by a partnership of which the taxpayer is a
13 member may claim a credit only in proportion to ~~[his]~~ the
14 taxpayer's interest in the partnership. The total credit
15 claimed by all members of the partnership shall not exceed
16 twenty-five thousand dollars (\$25,000) if governed by Paragraph
17 (1) of Subsection A of this section, or fifty thousand dollars
18 (\$50,000) if governed by Paragraph (2) of Subsection A of this
19 section, in the aggregate for any single restoration,
20 preservation or rehabilitation project for any cultural
21 property listed on the official New Mexico register approved by
22 the committee.

23 E. The credit provided in this section may only be
24 deducted from the taxpayer's corporate income tax liability.
25 Any portion of the maximum tax credit provided by this section

.167934.4

1 [which] that remains unused at the end of the taxpayer's
2 taxable year may be carried forward for four consecutive years;
3 provided, however, the total tax credits claimed under this
4 section shall not exceed twenty-five thousand dollars (\$25,000)
5 if governed by Paragraph (1) of Subsection A of this section,
6 or fifty thousand dollars (\$50,000) if governed by Paragraph
7 (2) of Subsection A of this section, for any single
8 restoration, rehabilitation or preservation project for any
9 cultural property listed on the official New Mexico register.

10 F. The historic preservation division shall
11 promulgate regulations for the implementation of this section.

12 G. As used in this section:

13 (1) "committee" means the cultural properties
14 review committee created in Section 18-6-4 NMSA 1978; and

15 (2) "historic preservation division" means the
16 historic preservation division of the [~~office of~~] cultural
17 affairs department created in Section 18-6-8 NMSA 1978."

18 Section 16. APPROPRIATION.--One hundred thousand dollars
19 (\$100,000) is appropriated from the general fund to the arts
20 and cultural district fund for expenditure in fiscal year 2008
21 and subsequent fiscal years to carry out the purposes of the
22 fund. Any unexpended or unencumbered balance remaining at the
23 end of a fiscal year shall not revert to the general fund.

24 Section 17. APPLICABILITY.--The provisions of this act
25 shall apply to taxable years beginning on or after January 1,

1 2009.

2 Section 18. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2007.

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underscored material = new
[bracketed material] = delete